

No. 10977

**POLAND
and
GERMAN DEMOCRATIC REPUBLIC**

**Agreement concerning co-operation with regard to navigation
in frontier waters (with additional protocol). Signed at
Warsaw on 15 May 1969**

Authentic texts: Polish and German.

Registered by Poland on 2 March 1971.

**POLOGNE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Accord concernant la coopération en matière de navigation
sur les eaux frontières (avec protocole additionnel). Signé
à Varsovie le 15 mai 1969**

Textes authentiques: polonais et allemand.

Enregistré par la Pologne le 2 mars 1971.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE
POLISH PEOPLE'S REPUBLIC AND THE GOVERNMENT
OF THE GERMAN DEMOCRATIC REPUBLIC CON-
CERNING CO-OPERATION WITH REGARD TO NAVI-
GATION IN FRONTIER WATERS

The Government of the Polish People's Republic and the Government of the German Democratic Republic, desiring to strengthen and expand friendly relations between the two States with regard to navigation in frontier waters, have agreed to conclude this Agreement.

For this purpose they have appointed as their plenipotentiaries:
The Government of the Polish People's Republic:

Stefan Perkowicz, Under-Secretary of State in the Ministry of Navigation;

The Government of the German Democratic Republic:

Horst Schlimper, Deputy Minister of Transport,
who having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

1. For the purposes of this Agreement:

- (1) "Frontier waters" means:
 - (a) The Oder from km 542.4 to km 704.1;
 - (b) The West Oder from km 0.0 to km 17.1;
 - (c) The waterway off Altwarp and Nowe Warpno [Zalew Szczeciński (Oder Haff)] from auxiliary frontier mark No. 7 (beacon) to auxiliary frontier mark No. 9 (light-buoy);
 - (d) The Nysa Łużycka (Lausitzer Neisse) from Wilhelm-Pieck-Stadt Guben (Gubin) to the mouth.
- (2) "Vessels" means water-borne objects used for the transport of persons, goods or animals, for engineering works, for fishing and for sport.
- (3) "Navigation" means traffic involving the vessels listed under paragraph 2.

¹ Came into force on 5 March 1970 by the exchange of the instruments of ratification, which took place at Berlin, in accordance with article 24.

2. Where the term "vessels" is used in the provisions of this Agreement, it shall be understood to include rafts.

Article 2

1. The Contracting Parties grant each other, on a basis of complete equality, the right to navigation in frontier waters.

2. Sporting and tourist navigation shall be permitted only on the Oder.

Article 3

Co-operation on the basis of this Agreement for the safe and optimum conduct of navigation in frontier waters shall include, in particular, the following functions:

- (1) The preparation of rules concerning navigation and concerning the marking of frontier waters for navigation;
- (2) Supervision to maintain the order and safety of navigation;
- (3) Determination of the depth and breadth of the fairway;
- (4) Marking of frontier waters for navigation;
- (5) Removal of sunken vessels and other objects in the fairway which may become a danger to navigation;
- (6) Designation of moorings;
- (7) Conduct of aid and rescue operations;
- (8) Investigation of accidents occurring in the course of navigation.

Article 4

1. The Contracting Parties shall jointly prepare uniform rules concerning the regulation of shipping and the marking of frontier waters for navigation and shall put them into force on the same date.

2. Provisions not covered by the rules referred to in paragraph 1 which may affect navigation by the other Contracting Party shall be agreed upon with that Party.

Article 5

1. Vessels authorized for navigation by either Contracting Party may use the full width of the frontier waters.

2. Tying up to the other Contracting Party's bank and making contact with vessels of the other Contracting Party shall not be permitted. This provision shall not affect the use of the prescribed navigation signals.

3. Vessels and persons and cargo on board them shall be exempt from frontier and customs inspections.

4. The Contracting Parties shall levy no navigation charges on navigation in frontier waters.

Article 6

1. In the event of vessels, members of their crews or other persons being obliged to tie up to the other Contracting Party's bank, to land or discharge cargo on the bank or to make contact with vessels of the other Contracting Party, such persons, vessels and cargoes shall be subject to the relevant provisions of the other Contracting Party. The person in charge of the vessel shall immediately inform the local frontier and customs authorities of any contact with the bank or with a vessel of the other Contracting Party.

2. In the cases referred to in paragraph 1, the authorities competent to conduct inspections shall be empowered to board vessels of the other Contracting Party and to carry out inspections within their sphere of competence.

Article 7

1. Every vessel shall carry the documents and distinctive marks prescribed for navigation.

2. Every vessel shall carry a crew of the revised composition and possessing the proper qualifications.

3. Crew members and other persons on board a vessel shall carry with them the reciprocally recognized navigation and personal documents prescribed by the national legislation of the Contracting Parties. Persons on board sporting and tourist vessels shall, in addition to the prescribed personal documents, carry a permit to travel in frontier waters. The model for the permit shall be agreed upon by the competent authorities of the Contracting Parties.

4. Documents for vessels and crews issued or recognized by the authorities of one Contracting Party shall be recognized by the authorities of the other Contracting Party.

Article 8

In the event of the competent authorities of one Contracting Party becoming aware that the rules concerning navigation have been violated by crew members of vessels of the other Contracting Party, they shall so inform the competent authorities of the other Contracting Party and may request that the necessary measures should be taken.

Article 9

1. Each Contracting Party shall designate mooring places for its vessels along its bank, inform the other Contracting Party of the said places and issue appropriate mooring regulations. Special mooring places shall be designated for sporting, tourist and fishing vessels.

2. Vessels of the authorities competent to conduct inspections and vessels engaged in engineering works may also stop at other places and tie up to the other Contracting Party's bank in accordance with the agreements concluded under article 21.

Article 10

Each Contracting Party shall grant every assistance to the other Contracting Party's persons and vessels in distress. The costs arising therefrom shall be borne by the Contracting Party whose vessels receive assistance.

Article 11

1. Investigations of accidents occurring in the course of navigation in the frontier waters referred to in article 1, paragraph 1 (1) (a), (b) and (d), shall, in principle, be conducted jointly by the competent authorities of the two Contracting Parties, in so far as the interests of both Contracting Parties are affected by the accident. The purpose of such investigations shall be to determine the cause of the accident, the responsibility for it and the nature and extent of the damage.

2. In the event of an accident in which persons or property of both Contracting Parties are involved and damage has been suffered, claims for compensation for damage shall be decided according to the law of the Contracting Party in whose territory the accident occurred.

3. Where it is impossible to determine in whose territory the accident occurred, claims for compensation for damage shall be decided according to the law of the Contracting Party which has suffered the greater damage.

4. Where the enterprises and institutions of the two Contracting Parties involved in or affected by the accident cannot arrive at a settlement concerning the damage, a joint Commission shall be established to settle the case. The Commission shall not be bound by the findings of the investigating authorities with regard to the extent of the damage.

5. Decisions of the Commission established under paragraph 4 may be arrived at only unanimously; if unanimity is not achieved, a final decision

shall be sought from the International Court of Arbitration for Sea and Inland Navigation at Gdynia.

6. The procedure for the investigation of accidents occurring in the frontier waters referred to in article 1, paragraph 1, (1) (a), (b) and (d), shall be regulated by the Contracting Parties by means of an agreement concluded under article 21. The agreement shall also establish the method of appointment, composition and procedures of the Commission referred to in paragraph 4.

7. Investigations of accidents occurring in the frontier waters referred to in article 1, paragraph 1 (1) (c), shall be conducted by the competent authorities of the Contracting Parties. If after the conclusion of the investigation those involved in the accident cannot agree on the claims, a final decision shall be sought from the International Court of Arbitration for Sea and Inland Navigation at Gdynia.

Article 12

Fishing in frontier waters shall not interfere with navigation. In other respects, the provisions governing fishing shall be established by an appropriate agreement between the two Contracting Parties.

Article 13

1. Works to ensure the safe and optimum conduct of navigation, as well as the marking of frontier waters in connexion therewith, shall, in principle, be carried out by each Contracting Party in its own territory at its own expense.

2. Where in the interests of safety of navigation or for other important reasons local sharing of works in a manner other than that laid down in paragraph 1 becomes necessary, appropriate agreements may be concluded between the competent authorities.

Article 14

1. The two Contracting Parties shall remove sunken vessels and other obstacles to navigation. The competent authorities of the two Contracting Parties shall agree on appropriate measures for that purpose.

2. Sunken vessels shall be raised by the Contracting Party which authorized them for navigation.

Article 15

The longitudinal and transverse soundings necessary for the installation

of navigation marks and for establishing the breadth and depth of the fairway shall be carried out on the basis of agreements between the competent authorities of the two Contracting Parties.

Article 16

The Contracting Parties shall ensure the maximum possible depth and breadth of the fairway for making the fullest use of navigation and the carrying capacity of vessels. For this purpose, agreements shall be concluded between the competent authorities of the two Contracting Parties.

Article 17

1. The fairway depths permissible for navigation shall be established jointly, in accordance with the current water levels. The competent authorities of the two Contracting Parties shall maintain an information service for this purpose.

2. The jointly established fairway depth shall be binding in respect of navigation by both Contracting Parties.

3. The highest navigable water levels shall be established jointly and shall be binding on both Contracting Parties.

Article 18

All such measures taken adjacent to or in frontier waters to ensure the safety of navigation as may affect the maintenance of the frontier shall be agreed upon with the competent frontier protection authorities.

Article 19

1. Crossing of the frontier by persons engaged, in the territory of the other Contracting Party, in directing or carrying out works arising out of this Agreement must conform to the relevant agreement concerning co-operation in frontier matters.

2. Means of transport, materials, tools and instruments required in the territory of the other Contracting Party for works provided for in this Agreement may be imported without a permit and free of duty.

3. The exemptions referred to in paragraph 2 shall be subject to the requirement that the means of transport, unused materials, tools and instruments shall be re-exported on completion of the works provided for in this Agreement.

4. Supervision of the import and re-export of means of transport, materials, tools and instruments referred to in paragraphs 2 and 3 must conform to the national legislation of the Contracting Parties.

5. Persons employed on the works provided for in this Agreement may import and export, without a permit and free of duty, articles of personal use and provisions in the quantities required for the period of their residence in the territory of the other Contracting Party, either under a separate agreement between the competent authorities or in accordance with national legislation.

Article 20

For purposes of the implementation of this Agreement, each Contracting Party shall appoint a Governmental Plenipotentiary, hereinafter referred to as the Plenipotentiary, and his deputy. The names of the Plenipotentiaries and their deputies shall be communicated to the other Contracting Party through the diplomatic channel.

Article 21

1. The Plenipotentiaries may conclude agreements concerning the implementation of this Agreement. They may stipulate that such agreements shall be subject to approval by the competent authorities of the Contracting Parties.

2. The Plenipotentiaries shall inform each other which authorities are competent to carry out individual functions arising out of this Agreement. In the exercise of their functions, such authorities shall communicate with each other direct.

Article 22

1. The Plenipotentiaries shall as a rule meet once a year. The meetings shall take place alternately in the Polish People's Republic and the German Democratic Republic. Representatives of those authorities whose functions may be affected shall also participate.

2. The meetings shall be convened and presided over by the Plenipotentiary of the Contracting Party in whose territory they are to take place.

3. A record of each meeting of the Plenipotentiaries shall be prepared in duplicate in the Polish and the German languages.

4. Costs incurred in holding meetings shall be borne by the Contracting Party in whose territory they take place. Travel and subsistence costs shall be borne by each Contracting Party.

Article 23

1. Subject to the provisions of paragraph 2, the following shall cease to have effect on the date of the entry into force of this Agreement:

- (1) The Agreement between the Government of the Polish Republic and the Government of the German Democratic Republic concerning navigation in frontier water and the use and maintenance of frontier waters, signed at Berlin on 6 February 1952;¹
- (2) Paragraph 3 of the Additional Protocol to the Agreement between the Government of the Polish People's Republic and the Government of the German Democratic Republic concerning co-operation in the use of water resources in frontier waters, signed at Berlin on 11 March 1965.

2. The provisions concerning navigation in frontier waters prepared under article 30 of the Agreement referred to in paragraph 1 (1) and the Final Protocol to that Agreement shall remain in force until the time of the entry into force of new provisions.

Article 24

This Agreement is subject to ratification and shall enter into force on the date of the exchange of the instruments of ratification. The exchange of the instruments of ratification shall take place at Berlin, the capital of the German Democratic Republic.

Article 25

This Agreement is concluded for a term of ten years. It shall be extended for successive five-year terms unless one of the Contracting Parties denounces it by notification six months before the expiry of the current term.

DONE at Warsaw on 15 May 1969, in duplicate in the Polish and German languages, both texts being equally authentic.

¹ United Nations, Treaty Series, vol. 304, p. 131.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting Parties have signed this Agreement and have thereto affixed their seals.

For the Government
of the Polish People's Republic:

STEFAN PERKOWICZ
Under-Secretary of State
in the Ministry of Navigation

For the Government
of the German Democratic
Republic:

HORST SCHLIMPER
Deputy Minister of Transport

ADDITIONAL PROTOCOL TO THE AGREEMENT OF 15 MAY 1969
BETWEEN THE GOVERNMENT OF THE POLISH PEOPLE'S RE-
PUBLIC AND THE GOVERNMENT OF THE GERMAN DE-
MOCRATIC REPUBLIC CONCERNING CO-OPERATION WITH RE-
GARD TO NAVIGATION IN FRONTIER WATERS

On the occasion of the signing of the Agreement between the Government of the People's Republic of Poland and the Government of the German Democratic Republic concerning co-operation with regard to navigation in frontier waters, it was agreed that:

The provisions of article 24 of the Agreement between the Polish Republic and the German Democratic Republic concerning navigation in frontier waters and the use and maintenance of frontier waters, signed at Berlin on 6 February 1952, and the conditions contained therein relating to fishing in frontier waters shall remain in force until the conclusion of appropriate agreements between the Contracting Parties.

This Protocol, which forms an integral part of the Agreement, is done at Warsaw on 15 May 1969, in duplicate in the Polish and German languages, both texts being equally authentic.

For the Government
of the Polish People's Republic:

STEFAN PERKOWICZ
Under-Secretary of State
in the Ministry of Navigation

For the Government
of the German Democratic Republic:

HORST SCHLIMPER
Deputy Minister of Transport
